IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 892 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAVITABEN RAMANBHAI CHAVDA

Versus

UNITED INDIA INSURANCE CO.LTD.

Appearance:

1. Civil Revision Application No. 892 of 2001

MR MEHUL SHARAD SHAH for Petitioners No. 1-4

MRS NILIMA M SHAH for Petitioners No. 1-4

MS AVANI S MEHTA for Respondent No. 1

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 06/12/2001

ORAL JUDGEMENT

#. This Revision application is directed against order passed by the learned Motor Accident Claims Tribunal (Main) Mehsana below application Ex.18 and 25 passed on

27.6.2000 and 21.6.2001.

#. The brief facts are, one Ramanbhai Tejabhai Chavda filed Motor Accident Claims Petition in the tribunal at Mehsana bearing M.A.C.P.173/1999 for the injuries which Ramanbhai T. Chavda sustained in an accident. In a Lok Adalat thereafter Ramanbhai T. Chavda applicant and United Indian Insurance Company Ltd., which was insurer of the vehicle involved compromised the said Motor Accident Claims Petition No.173/1999 and accordingly United India Insurance Company Ltd., agreed to make the payment of Rs.25,000/- to Ramanbhai T. Chavda applicant of Motor Accident Claims Petition. This compromise was executed on 30.10.1999. It appears that thereafter injured Ramanbhai T. Chavda died on 5.12.1999 by natural death but before that United India Insurance Co. Ltd., deposited the amount of Rs.25,000/- before the Motor Accident Claims Petition (Main) at Mehsana as per the settlement.

#. The present applicants who are legal heirs of deceased Ramanbhai T. Chavda - original applicant preferred an application Ex.18 to join them as a legal heirs of deceased Ramanbhai T. Chavda in Motor Claims Accident Petition No.173/1999. The learned tribunal rejected the said application saying after settlement in Lok Adalat the proceedings of the said Application No.173/1999 were ended and the question of bringing legal heirs on record did not arise. Thereafter, the petitioner applied for heirship Certificate before the Mamlatdar, Mehsana and obtained such certificate on 19.7.2000. The present applicants again moved an application Ex.25 alongwith heirship certificate issued by the Mamlatdar, Mehsana and prayed that they may be permitted to withdraw the amount of Rs.25,000/- deposited by the United India Insurance Co. Ltd. However, the learned Tribunal, Mehsana dismissed the said application on 11.6.2001 and being aggrieved and dissatisfied by the above said two orders of learned Motor Accident Claims Petition (Main) Mehsana this revision is preferred by the legal heirs of original applicant.

#. Learned advocate Mr.M.S.Shah for the petitioner and learned advocate Ms.Avni Mehta for respondent - United India Insurance Co. Ltd., were heard at length.

#. The facts as narrated above clearly show that the amount of settlement of Rs.25,000/- is deposited by the respondent with the learned Tribunal. True it is that joining of the legal heirs in the said Motor Accident Claims Petition is out of question because the proceeding

comes to an end, but the cardinal settled principle of law appears to have been overlooked by the learned Tribunal that on the death of the plaintiff in whose favour the decree is drawn legal heirs of such plaintiff can maintain and proceed with the execution proceeding. In this case the Insurance Company has deposited the amount of award before the tribunal and they have not taken any objection for making of the payment of this amount, because the matter was settled by compromise. Had this amount been not deposited by the Insurance company then undoubtedly the present applicants had right to maintain an execution application and to recover the amount but that question does not arise for the simple reason that here the decretal amount that is awarded amount is deposited by the Insurance Company. In this view of the matter, there cannot be any legal hindrance in making payment to the present applicants the amount which was awarded to deceased Ramanbhai T. Chavda. The present applicants have obtained heirship certificate and the same is produced before the tribunal. In addition to this the present applicants may file an affidavit to the effect that except the present applicants there are no other legal heirs of deceased Ramanbhai T. Chavda to have the benefit of the awarded amount.

#. In this view of the matter, the order passed by the learned Motor Accident Claims Petition (Main) below Ex.18 and 25 are set aside. The learned Motor Accident Claims Petition (Main) Mehsana is directed to make the payment of the amount deposited by the Insurance Company to the present applicants on production of heirship certificate and on filing affidavit as aforesaid. If the amount is deposited with the Bank as directed by this Court vide order dated 27.8.2001 then the tribunal shall make payment to the applicants of Rs.25,000/- alongwith the amount which might have accrued by way of interest due to the investment. If the amount is invested on fixed period and if the applicants desire to encash the amount before the term expires the learned Motor Accident Claims Tribunal (Main) Mehsana shall make payment to the applicants prematurely that is to say encashing the investment before the term expires. Rule is made absolute. No order as to costs.

(J. R. VORA, J.)

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